

CHAMBER ACTION

1 The Insurance Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to insurable interests; amending s.  
7 627.404, F.S.; authorizing certain trusts, partnerships,  
8 and limited liability companies to own or purchase life  
9 insurance on an insured under certain circumstances;  
10 providing requirements; requiring approval of the  
11 Department of Financial Services; prohibiting assigning or  
12 transferring, changing ownership or beneficiary  
13 designation, or taking out a loan against such policies  
14 under certain circumstances; providing for taking such  
15 actions under a license; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Subsections (3), (4), and (5) are added to  
20 section 627.404, Florida Statutes, to read:

21 627.404 Insurable interest; personal insurance.--

22 (3) Any trust, partnership, limited liability company, or  
23 similar entity that is approved in writing by a public or

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24 private university in this state that receives state funds, or  
25 affiliated foundations of such university, and meets the  
26 requirements of s. 501(c)(3) of the Internal Revenue Code of  
27 1986, as amended, or by a public or private university in this  
28 state that receives state funds, or the affiliated foundation of  
29 such university, to which a charitable contribution could be  
30 made under s. 170(c)(1), (2), or (3) of the Internal Revenue  
31 Code of 1986, as amended, may own or purchase life insurance on  
32 an insured who consents in writing to the ownership or purchase  
33 of that insurance, subject to the following:

34 (a) The approved trust, partnership, limited liability  
35 company, or similar entity must be, in part, formed for the  
36 purpose of generating funds for one or more designated public or  
37 private universities in this state that receive state funds or  
38 affiliated foundations of such universities.

39 (b) The approved trust, partnership, limited liability  
40 company, or similar entity must procure or cause to be procured  
41 a combination of life insurance policies and annuity contracts  
42 on the life of consenting individual insureds. Payments under  
43 the annuity contracts shall be reasonably anticipated to fund  
44 the premiums on the life insurance policies for the second and  
45 succeeding years.

46 (c) At least 99 percent of all funds used by the approved  
47 trust, partnership, limited liability company, or similar entity  
48 to procure the life insurance policies and annuity contracts  
49 must be from qualified institutional buyers as defined by Rule  
50 144A of the Federal Securities Act of 1933 or proceeds from  
51 annuity contracts or other insurance policies procured with the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 funds invested by qualified institutional buyers, and interest  
53 income on such funds.

54 (d) The investment in the approved trust, partnership,  
55 limited liability company, or similar entity by qualified  
56 institutional buyers shall be pursuant to a nonpublic offering  
57 or a public offering through a registered broker or dealer under  
58 the Securities Exchange Act of 1934.

59 (e) No qualified institutional buyer may procure or hold  
60 any direct interest in the life insurance policies or the  
61 annuity contracts, or the benefits from such policies or  
62 contracts, except as part of a securitized transaction, subject  
63 to chapter 517 or federal securities laws.

64 (f) The public or private university in this state that  
65 receives state funds, or affiliated foundations of such  
66 university, as designated by the individual insured, must, at  
67 the time of the acquisition of the life insurance policies by  
68 the approved trust, partnership, limited liability company, or  
69 similar entity, reasonably anticipate receiving death benefit  
70 proceeds of each life insurance policy on such individual  
71 insured after the return of the amount invested and yield  
72 accrued and payable to the qualified institutional buyers in  
73 accordance with the securities offering or other disclosure  
74 materials. The reasonably anticipated minimum percentage or  
75 amount of the death benefit proceeds of the life insurance  
76 policies to be ultimately received by such designated  
77 university, or affiliated foundations of such university, must  
78 be disclosed in the relevant securities offering or other  
79 disclosure materials used in any offering.

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80       (g) The individual insured and each designated public or  
81 private university in this state that receives state funds, or  
82 affiliated foundations of such university, must be informed,  
83 prior to the ownership or purchase of life insurance on the  
84 individual insured by the approved trust, partnership, limited  
85 liability company, or similar entity, of the minimum percentage  
86 or amount of the proceeds of the life insurance policy that is  
87 reasonably anticipated to be ultimately paid to the designated  
88 organization.

89       (h) The individual insured must provide an affidavit  
90 stating that the individual insured, any relative of the  
91 individual insured as defined in s. 112.312(21), and any entity  
92 controlled by the individual insured or relative, other than a  
93 public or private university in this state that receives state  
94 funds, or affiliated foundations of such university, did not  
95 receive any monetary remuneration in consideration for the  
96 individual insured's consent to purchase the life insurance  
97 policy, except third party expenses incurred in connection with  
98 the grant of such consent.

99       (i) All insurance and annuity products purchased in  
100 conjunction with a transaction authorized by this subsection  
101 shall be purchased through a licensed Florida agent.

102       (j) At the time of the transaction, the insured must have  
103 a minimum net worth of \$5 million.

104       (4) Transactions involving the procurement or funding of  
105 the procurement of a life insurance policy or annuity contract  
106 pursuant to subsection (3) are prohibited without the prior  
107 approval of the Department of Financial Services in consultation

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108 with the Office of Financial Regulation and Office of Insurance  
 109 Regulation, which approval shall only be provided upon a  
 110 determination that the planned transaction meets the  
 111 requirements of subsection (3), is fiscally prudent, and is  
 112 determined to be in the best interest of the citizens of this  
 113 state. Upon approval, a trust, partnership, limited liability  
 114 company, or similar entity that meets the requirements of  
 115 subsection (3) has an insurable interest in the life of the  
 116 individual insured.

117 (5) With respect to the approved trust, partnership,  
 118 limited liability company, or similar entity described in  
 119 subsection (3), except in the case of a material default of, or  
 120 commencement of a delinquency proceeding against, the life  
 121 insurer or annuity company or the life insurer or annuity  
 122 company exercising its right to contest the life insurance  
 123 policy or annuity contract:

124 (a) The life insurance policies procured or caused to be  
 125 procured by such entity may not be assigned or transferred by  
 126 such entity;

127 (b) The ownership or beneficiary designation in favor of  
 128 such entity of the life insurance policies procured or caused to  
 129 be procured by such entity may not be changed; or

130 (c) A policy loan under the life insurance policies  
 131 procured or caused to be procured by such entity may not be  
 132 taken out by such entity,

133  
 134 unless such entity applies for and obtains a license pursuant to  
 135 the provisions of s. 626.9912 prior to transferring or assigning

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136 | the policy, changing the ownership or beneficiary designation of  
137 | the policy, or taking out a loan against the policy. All  
138 | transactions under s. 626.9912 are subject to chapter 517.

139 |       Section 2. This act shall take effect upon becoming a law.